



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL OP No. 17647 of 2026

and

CrI.M.P.Nos. 11769 & 11770 of 2026

Vetrivel,
S/o. Ramakrishnan,
D.No.1/16/21, Vasantha Nagar,
Aruppukkottai,
Virudhunagar District.

..Petitioner(s)

Vs

1. The Inspector of Police,
Ooty Town West Police Station,
Udhagamandalam,
The Nilgiris District.
Cr.No.181/2024.

2. Nilafar Nisha
W/o. Abdul Sammeed,
D.No.346, Vannarapetti,
Ooty, The Nilgiris District.

..Respondent(s)

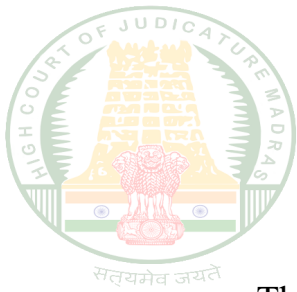
Prayer: Criminal Original Petition filed under Section 528 of BNSS 2023, to call for the records of proceedings of CC.No.278/2025 on the file of Judicial Magistrate Court, Udhagamandalam, The Nilgiris District and quash the same and pass such further or other orders.

For Petitioner(s):

Mr.R.Murugappan

For Respondent(s):

Mr.M.Mohamed Riyaz
Government Advocate (Crl. Side) for R1

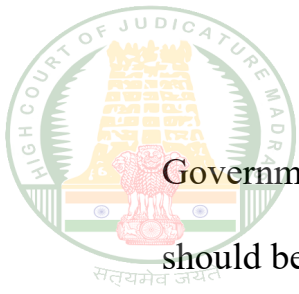


ORDER

The prayer in the Criminal Original Petition is to quash the proceedings in CC No.278 of 2025 on the file of the learned Judicial Magistrate Court, Udthagamandalam, The Nilgiris District.

2. Upon perusing the final report, it is seen that the petitioner / accused had posted a message in his social media account / facebook account by mentioning that in an Islamic family, on account of love jihad, just because Yashika, a Hindu girl refused conversion into Islam, Cyanide poison was mixed in her food and she was killed by her mother-in-law. Firstly, the deceased was not a Hindu but, was a Muslim herself. The further allegation is that the false message is posted by the petitioner with a mischievous intention to create unrest between people on religious lines and as such, the case was registered in Crime No.181 of 2024 and after investigation, the final report is filed for the alleged offences under Section 353(1)(b), 353(2) and 196(1)(a) of BNS, 2023.

3. The primary contention that is made by the learned counsel for the petitioner is that for all the above three offences, for which, now the final report is filed and taken cognizance of Section 217 of BNSS. Though all the offences mentioned, Section 217 of BNSS makes it mandatory that cognizance cannot be taken except the previous sanction of the Central Government or of the State



Government. In view thereof, the learned counsel submits that the proceedings should be quashed.

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4. Per Contra, the learned Government Counsel (Criminal Side) by relying upon the judgments of the Honourable Supreme Court of India in ***Thota Venkateswarlu Versus. State of Andhra Pradesh, (2011) 9 SCC 527***, which related to the offence under Section 138 of Cr.P.C., would submit that in that context, the Honourable Supreme Court of India held that it is not even necessary to quash the case, as the defect is curable one. He would further submit that as far as the case in question is concerned, the matter has since been decided by the Honourable Supreme Court of India in ***Amod Kumar Kanth Versus. Association of Victim of Uphaar Tragedy and another, (2023) 16 SCC 239*** whereby, it is held in view of the mandate contained and in the Cr.P.C., taking cognizance to the contrary cannot stand in law but, however, that should not be the permanent end of the proceedings. The liberty should be given to the respondent Police to proceed with the matter afresh, if they choose to once again proceed, with due sanction in the manner known to law.

5. I have considered the rival submissions made on either side and perused the material records of the case as Section 217 of BNSS categorically mandates the prior approval of the appropriate Government before taking cognizance of the offences. In this case, since cognizance has been taken



without the due sanction of the appropriate Government, the petitioner is entitled to succeed. However, following the dictum in *Amod Kumar Kanth* cited supra, the quashing of the proceedings will not preclude the respondents from proceeding with the matter afresh, in accordance with law.

6. In view there of, this Criminal Original Petition stands allowed on the following term:

i) C.C.No. 278 of 2025 on the file of the Judicial Magistrate Court, Udthagamandalam, The Nilgiris District stands quashed.

ii) However, this order shall not come in the way of the respondents proceeding further once again with the due sanction of the appropriate Government, if they choose to.

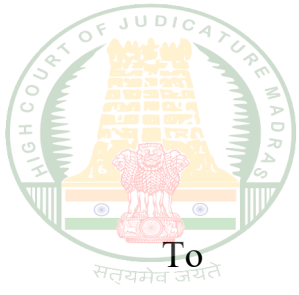
iii) The statement made on behalf of the petitioner that hereafter, will post Facebook messages only after due verification of the facts is also recorded.

7. Consequently, connected miscellaneous petitions are closed.

09-07-2026

Neutral Citation: No

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To

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1. The Inspector of Police,
Ooty Town West Police Station,
Udhagamandalam,
The Nilgiris District.
2. The Judicial Magistrate Court,
Udhagamandalam,
The Nilgiris District.
3. The Public Prosecutor,
High Court, Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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